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OFFICE OF PETITIONS

AARON WOLF BAUM  
960 NATOMA STREET #3  
SAN FRANCISCO, CA 94103

In re Application of  
Zachariah Journey Baum, et al.  
Application No. 10/662,230  
Filed: September 15, 2003  
Attorney Docket No.: None

ON PETITION

This is a decision in response to the petition, filed June 4, 2010, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **DISMISSED** because it is not signed in accordance with 37 CFR 1.33(b). The petition is signed by one of the two joint inventors.

37 CFR 1.33(b) states that:

Amendments and other papers, except for written assertions pursuant to § 1.27(c)(2)(ii) of this part, filed in the application must be signed by:

- (1) A registered patent attorney or patent agent of record appointed in compliance with § 1.32(b);
- (2) A registered patent attorney or patent agent not of record who acts in a representative capacity under the provisions of § 1.34;
- (3) An assignee as provided for under § 3.71(b) of this chapter; or
- (4) **All of the applicants** (§ 1.41(b)) for patent, unless there is an assignee of the entire interest and such assignee has taken action in the application in accordance with § 3.71 of this chapter. Emphasis added

An unsigned amendment (or other paper) or one not properly signed by a person having authority to prosecute the application is not entered. This applies, for instance, where the amendment (or other paper) is signed by only one of three applicants and the one signing has not been given a power of attorney by the other applicants.

Further, a grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a

grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(c). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c)(II)(C) and (D).

Therefore, as the petition containing the statement of unintentional delay is not signed by all the inventors and the record herein fails to disclose that petitioner herein (Zachariah J. Baum) was ever given a power of attorney to act on behalf of the other inventor, or that he is an assignee of the entire interest and has complied with the provisions of 37 CFR 3.73(b), the petition is considered to not contain a proper statement of unintentional delay.

Petitioner should also note that the change of correspondence address notices filed January 16, 2007 and June 4, 2010 are improper and therefore ineffective to change the correspondence address of record, as they are not signed in accordance with 1.33 as well.

Lastly, petitioner should note that the response included with the present petition cannot be accepted as a proposed reply, as it is a duplicate of response filed on June 8, 2006, which has already been considered by the examiner in the final Office action of June 25, 2007. For applicant's convenience, a copy of the final Office action is enclosed.

Under the circumstances of this case, a courtesy copy of this decision is being mailed to the address noted in the petition. All further communications regarding this application will be mailed solely to the address of record.

At present the petition cannot be granted. This decision is made without prejudice to reconsideration. However, any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)".

Petitioner may wish to consider hiring a registered patent attorney or agent to assist in the prosecution of this application or contact the Inventors Assistance Center (IAC) by telephone at 800-786-9199 or 571-272-1000, Monday through Friday from 8:30 AM to 5:30 PM (EST). The IAC provides patent information and services to the public and is staffed by former Supervisory Patent Examiners and experienced Primary Examiners who answer general questions concerning patent examining policy and procedure.

Further correspondence with respect to this matter should be delivered through one of the following mediums:

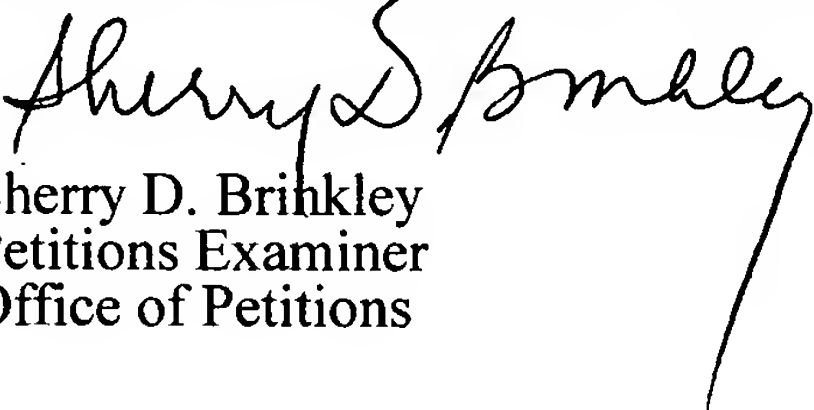
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By fax: (571) 273-8300  
ATTN: Office of Petitions

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Any questions concerning this matter may be directed to the undersigned at (571) 272-3204.

  
Sherry D. Brinkley  
Petitions Examiner  
Office of Petitions

Enclosure: Final Office action of June 25, 2007

cc: ZACHARIAH J. BAUM  
243 MADISON STREET  
SAN FRANCISCO, CA 94134